

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 alleging a claim of excessive force at the time of his arrest. On September 25, 2007, the court granted defendants' motion for summary judgment in part as to defendant Oakland Police Department and denied defendants' motion for summary judgment in part as to defendant Officer Romans. The court denied plaintiff's motion for depositions, referred the instant case to the court's Pro Se Prisoner Settlement Program and stayed the case pending settlement proceedings.

Plaintiff filed a motion for extension of time to file his opposition to defendants' motion for summary judgment and a motion for sanctions. Plaintiff also has filed a letter with the court regarding settlement and a proposed settlement request.

1 The court denies plaintiff's motion for sanctions (docket no. 91), denies plaintiff's motion  
2 for extension of time (docket no. 93) as moot, and denies plaintiff's settlement request  
3 (docket no. 104) without prejudice. The court notes that the settlement conference has  
4 not taken place as of the date of this order and will refer plaintiff's request and letter to  
5 Magistrate Judge Vadas. The court orders defendant's counsel to contact Judge Vadas  
6 **within seven days of the date this order is filed** in order to schedule a date for the  
7 settlement conference in this matter.

## 8 DISCUSSION

### 9 A. Motion for Sanctions

10 Plaintiff has filed a motion for sanctions against defendants based upon  
11 defendants' failure to complete an investigation in this case and failure to provide  
12 discovery to plaintiff. As stated in its prior orders addressing discovery, the court  
13 concludes that a majority of plaintiff's requested discovery is irrelevant to the issues  
14 presented in the previous motion for summary judgment and therefore premature at this  
15 time. The court directed defendants to provide relevant discovery to plaintiff. Plaintiff  
16 has not shown that any delay in his receiving documents was based on any bad faith on  
17 the part of defendants. Accordingly, plaintiff's motion for sanctions (docket no. 91) is  
18 DENIED without prejudice. The court notes that the instant action is stayed pending  
19 settlement proceedings, therefore any pending discovery requests are also stayed at this  
20 time.

### 21 B. Motion for Extension of Time

22 Plaintiff filed a motion for an extension of time to file his opposition to  
23 defendant's motion for summary judgment. Thereafter, plaintiff filed his opposition on  
24 May 14, 2007. The court notes that plaintiff's opposition was timely filed within the  
25 court's deadline. Accordingly, plaintiff's motion for extension of time (docket no. 93) is  
26 DENIED as moot.

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1 C. Plaintiff's Settlement Requests

2 Plaintiff has filed a request for a settlement proposal and a letter with the court  
 3 regarding settlement. The court has referred this action to the court's Pro Se Prisoner  
 4 Settlement Program with Magistrate Judge Vadas. As of the date of this order, the  
 5 settlement proceedings are pending scheduling with Judge Vadas. Accordingly,  
 6 plaintiff's settlement request (docket no. 104) is DENIED without prejudice as premature.  
 7 The court orders defendant's counsel to contact Judge Vadas **within seven days of the**  
 8 **date this order is filed** in order to schedule a date for the settlement conference in this  
 9 matter. The instant action is STAYED pending the settlement conference proceedings.

10 **CONCLUSION**

- 11 1. Plaintiff's motion for sanctions (docket no. 91) is DENIED without  
 12 prejudice.
- 13 2. Plaintiff's motion for extension of time (docket no. 93) is DENIED as  
 14 moot.
- 15 3. Plaintiff's proposed settlement request (docket no. 104) is DENIED without  
 16 prejudice as premature.
- 17 4. Defendant's counsel shall contact Judge Vadas **within seven days of the**  
 18 **date this order is filed** in order to schedule a date for the settlement conference in this  
 19 matter.
- 20 5. The clerk shall send a copy of this order to Magistrate Judge Vadas.
- 21 6. It is plaintiff's responsibility to prosecute this case. Plaintiff is reminded  
 22 that all communications with the court must be served on defendant by mailing a true  
 23 copy of the document to defendant's counsel. Plaintiff must keep the court and all parties  
 24 informed of any change of address by filing a separate paper captioned "Notice of Change  
 25 of Address."

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1 Plaintiff must comply with the court's orders in a timely fashion. Failure to do so may  
2 result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of  
3 Civil Procedure 41(b).

4 IT IS SO ORDERED.

5 DATED: 3/19/08

*Ronald M. Whyte*

RONALD M. WHYTE  
United States District Judge